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2010
Annual Report
COMPLIANCE REVIEW PANEL
Office of the Compliance Review Panel
Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
Tel +63 2 632 4149
Fax +63 2 636 2088
www.compliance.adb.org
crp@adb.org

For orders, please contact:
Department of External Relations
Fax +63 2 636 2648
adbpub@adb.org

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Note:
In this report, “$” refers to US dollars.
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Abbreviations

ADB – Asian Development Bank
AM – Accountability Mechanism
CSO – civil society organization
CoP – community of practice
CPRM – country portfolio review mission
CRMS – compliance review monitoring system
CRP – Compliance Review Panel
DMC – developing member country
EBRD – European Bank for Reconstruction and Development
IAM – independent accountability mechanism
IDB – Inter-American Development Bank
IRP – income restoration plan
JBIC – Japan Bank for International Cooperation
MICI – IDB Independent Consultation and Investigation Mechanism
NEXI – Nippon Export and Investment Insurance
NGO – nongovernment organization
NGOC – ADB NGO and Civil Society Center
OCRP – Office of the Compliance Review Panel
OSPF – Office of the Special Project Facilitator
PRC – People’s Republic of China
SPF – Special Project Facilitator
STDP – Southern Transport Development Project (Sri Lanka)
UNU – United Nations University
The year 2010 was important for the Compliance Review Panel (CRP). Two issues dominated our agenda: the review of ADB’s compliance in relation to the Fuzhou project in the People’s Republic of China (PRC) and the joint Board and Management review of the ADB Accountability Mechanism (AM). In addition, the CRP concluded the fifth and final annual monitoring of remedial actions for the Chashma project in Pakistan and conducted its fourth annual monitoring of remedial actions for the Southern Transport Development Project in Sri Lanka.

The challenges we faced during 2010 were not trivial. Our review of ADB compliance in the Fuzhou case concluded that we could not safely draw any conclusions or make recommendations after permission for a site visit was refused by the PRC. As we stated in our report to the Board on the Fuzhou case, finding a solution to the problem of the refusal of site visits must be a priority.

As to the review of the AM, the CRP was pleased to have been invited to provide our views throughout the process. We are grateful to the joint Board and Management working group for its consideration of our concerns. We believe that an accessible, independent, and effective AM is indispensable for ADB to help demonstrate its adherence to the highest standards of internal governance. The CRP believes that the AM ultimately helps ADB deliver on its mandate to reduce poverty and to foster sustainable development.

On a personal note, I wish to thank my fellow CRP members Tony La Viña and Anne Deruyttere for their continued help and support in 2010.

The CRP would also like to record its appreciation to the Office of the Compliance Review Panel (OCRP) for its service to the CRP and particularly to staff who transferred from OCRP during 2010, namely, former Associate Secretary Dewi Utami, and particularly to former Senior Compliance Program Assistant Josephina Miranda who had been with the AM since its inception.

A short description of the CRP is in the Appendix.

Rusdian Lubis
Chair
Compliance Review Panel
Chapter 1

2010: The Year in Review

The Compliance Review Panel—an independent body appointed by the Board of Directors to investigate compliance with ADB operational policies and procedures in ADB-financed projects

The year 2010 was a pivotal year for the Compliance Review Panel (CRP) for two reasons: (i) the refusal by the host country to permit a site visit for compliance review in connection with the Fuzhou Environmental Improvement Project (Loan 2176–PRC), and (ii) the initiation of the joint Board and Management review of the Accountability Mechanism (AM).

Refusal of Site Visits

In the Fuzhou case, the CRP formed the view that a site visit was necessary to enable it to complete a credible compliance review, but the People’s Republic of China (PRC) declined permission for the visit. As a result, the CRP was unable to complete its review, declined to present substantive findings, and was not in a position to make any recommendations to the Board.

In the CRP’s judgment, the inability to complete a credible compliance review adversely affects and undermines its effectiveness and credibility under the Accountability Mechanism and casts doubt on ADB’s commitment to transparency. The CRP is also concerned that this Fuzhou case may create an unfortunate precedent for other ADB
compliance review cases and perhaps for other independent accountability mechanisms (IAMs) in other multilateral development banks.

In its report to the Board of Directors, the CRP recommended that the Board should review ADB policy on CRP site visits and consider alternative solutions. On 19 October 2010, the Board discussed and noted the CRP report and supported CRP’s recommendation. The Board also decided to review the site visit issue as part of the ongoing review of the AM.

The CRP remains concerned as to how site visits will be addressed. The current AM recognizes that visits require the prior permission of host countries but also considers that such visits should be regarded as routine and not controversial. The CRP considers that a site visit allows for independent verification of alleged harm (or potential harm) and its link to alleged policy or procedural violations and therefore should be considered a best practice. A site visit also demonstrates fairness and transparency for both ADB and for requesting parties.

Accountability Mechanism Review

In 2010, ADB initiated the joint Board and Management review of its AM. The CRP welcomed the review and participated as observers in public consultations in Manila and Washington, DC. It also submitted comments to the review consultants and to the joint Board and Management working group.

In addition to addressing the policy on site visits, the CRP believes that the AM can be strengthened to (i) facilitate access by affected people, (ii) improve the sequencing of conflict resolution and compliance review, (iii) ensure the independence of the CRP, and (iv) emphasize the importance of outreach to all ADB stakeholders. Reforms in these areas will reinforce the effectiveness, fairness, and independence of the AM.

On site visits, the CRP acknowledges the effort to improve the current policy by facilitating communication between and among all concerned parties before a site visit though there is no guarantee that borrowing countries will allow such a site visit. In addition, the CRP suggested that ADB could adopt a “negative list” where instances for declining a site visit, such as security issues, natural disasters, and others, could be enumerated. Other safeguards may also be needed; for example, Management must ensure there is no conflict of interest when assisting with site visit facilitation. To enhance accountability and compliance, the CRP also suggests that the policy on site visits should apply to operations of both the private and the public sectors.

On accessibility, the CRP thinks that access could be improved by simplifying the process that requesting
parties have to follow in order to get their requests submitted. This would be especially important in instances when affected persons allege a policy violation and conflict resolution is neither desired nor appropriate or when there is a prima facie policy violation. Accessibility to the AM might also be enhanced if ADB provides proactive assistance, such as legal aid, to help with filing requests.

The CRP acknowledges the discussions about improving the link between conflict resolution and compliance review in the AM perhaps by creating a single point of entry for complaints. Any institutional arrangement must, however, avoid inherent conflicts of interest.

Stakeholders have observed that the lack of sufficient independence of the CRP from Management is a weakness. The CRP suggests that its independence could be improved if the Panel could appoint its secretary and staff, prepare its budget, have access to independent legal counsel, and decide on hiring consultants.

Access to the AM is also a function of information and outreach. The CRP believes that more could be done to increase the scope and depth of AM outreach. Outreach activities should be tailored to the particular situation in each country or region, should involve better collaboration with nongovernment organizations (NGOs), and should be made a routine part of stakeholder engagement during all stages of the project cycle.

The AM also needs to strengthen its outreach at ADB itself, especially among Management, staff, and resident missions as the missions are often the entry point for AM requests. Management and staff commitment and support are essential to ensure that the AM is instrumental in furthering ADB’s transparency and accountability.
Affected people who suffer or may suffer direct, adverse, material harm because of an ADB-funded project can request for a compliance review.

People’s Republic of China: Fuzhou Environmental Improvement Project

Background

On 3 June 2009, Mr. Wang Jie Quan and Mr. Xu Qi Long (the requesting parties) filed a compliance review request for the Fuzhou Environmental Improvement Project Loan (Loan 2176–PRC) in the People Republic of China.³ The Special Project Facilitator (SPF) had previously dealt with a similar complaint from a group of seven affected households that included the two requesting parties.

The requesting parties claimed that ADB had failed to observe its policy and procedures on involuntary resettlement which had caused them to suffer harm because of the following:

³ Information on this request for compliance review is at www.compliance.adb.org/
(i) unfair compensation for resettlement compared to that for affected persons with full property rights,
(ii) loss of livelihood and impoverishment, and
(iii) insufficient information and consultation on the revised resettlement plan.

In addition, the requesting parties complained about the lack of a timely response to their grievances.

In June 2009, the Board endorsed the eligibility report on the request without objection and authorized a compliance review. Subsequently, the Board Compliance Review Committee approved the terms of reference which included the expectation of a site visit consistent with the AM and with international good practice.

In responding to the requesting parties’ claims, ADB asserted that the resettlement plan for the project and its processing and implementation complied with both PRC and ADB policies on resettlement. Following a desk review of project documents, interviews with ADB staff, and telephone discussions with the requesting parties, the CRP concluded that a site visit was indispensable to assess the requesting parties’ claims and to provide them the same opportunity ADB had to interact directly with the CRP and to present their best evidence.

In October 2009, the CRP sought the assistance of the PRC Executive Director to obtain consent for a visit to the project area. In November 2009, the CRP was advised that following unsuccessful negotiations with the requesting parties, the project had been redesigned in order to avoid their resettlement; therefore, the government considered the site visit was no longer necessary. The CRP responded by stating that the redesign of the project did not render the requesting parties’ request for compliance review invalid as alleged actual or potential harm may still have been caused by prior ADB noncompliance. In addition, the requesting parties stated that instead of improving their situations, the redesign had caused more harm. The CRP was convinced that a site visit was essential, particularly in relation to allegations of harm and potential harm. The CRP asked the PRC to reconsider its decision.

**Report to the Board**

The CRP continued to communicate with the PRC and ADB on the site visit request until May 2010. The PRC authorities did not reconsider their earlier decision and advanced several additional reasons for the denial, including the fact that the requesting parties had left the area and that previous project site visits granted to Office of the Special Project Facilitator (OSPF) should have provided the CRP with sufficient information to complete its compliance review.
In the absence of a site visit, the CRP determined that it lacked sufficient evidence to conclude whether or not ADB was noncompliant and was unable to corroborate the requesting parties’ claims that they had suffered or might suffer harm. According to the AM, the mandate of the CRP is to verify claims of alleged direct and material harm and, if confirmed, whether harm was or may be caused by ADB noncompliance. Without a site visit, the CRP could not safely conclude that harm had occurred or might occur and therefore could not establish the required causal link between any alleged harm and any alleged noncompliance. In their response to the CRP request for comments on its draft report, the requesting parties recognized the efforts by the CRP but expressed disappointment with the inconclusive nature of ADB’s compliance review reiterating the deterioration of their living conditions. Management’s response highlighted the extensive efforts it had made to make all the information available to the CRP. After some minor adjustments, the CRP submitted a report to the Board.

On 19 October 2010, the Board accepted the CRP report and endorsed its only recommendation: to review the AM policy on site visits as a matter of priority.

The Board also decided that the issue of CRP site visits should be considered under the current AM review.

Other Communications

The CRP received five communications in 2010 requesting or inquiring about compliance reviews in the following areas: violations of labor rights, fulfillment of contractual obligations and nonpayment of consultancy fees, deviations in procurement procedures, and corruption and illegal practices in a sewage and drainage construction project. All those requests and inquiries were outside the CRP mandate and were referred to other appropriate ADB departments as necessary.
Chapter 3

Monitoring of Compliance Recommendations

The Compliance Review Panel monitors implementation of any remedial actions approved by the Board of Directors as a result of compliance review.

Pakistan: Chashma Right Bank Irrigation Project (Stage III)

In June 2010, the CRP issued its fifth and final annual monitoring report on the remedial actions for the Chashma project.2

Sri Lanka: Southern Transport Development Project

The CRP’s compliance review report regarding the Southern Transport Development Project (STDP) in Sri Lanka (Loan No. 1711-SRI[SF])

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2 The CRP’s annual report for 2009 summarized the lessons learned from monitoring the Chashma project.
was approved by the Board in 2005 and included 19 recommendations, the CRP has been coordinating with the South Asia Department annually to monitor progress on their implementation. The CRP concluded in its fourth annual monitoring report that considerable progress had been made. Based on Management’s progress report of 31 March 2010 and on a monitoring mission to Sri Lanka in April 2010, the CRP concluded that of the four remaining recommendations, one had been met and two had been partially met. The remedial actions the CRP identified as not yet fully implemented were the following:

(i) additional guidance for the *ADB Handbook on Resettlement: A Guide to Good Practice* (1998) (general recommendation 3); and

(ii) assistance with the income restoration plan (IRP) and the establishment of household benchmarks through the management information system for affected persons as called for in the resettlement implementation plan (specific recommendation 7).

Regarding (i), the CRP was pleased to note that a draft Sourcebook on Involuntary Resettlement

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3 Information on the monitoring of Board-approved remedial actions can be found in [www.compliance.adb.org](http://www.compliance.adb.org/)

4 As explained in the second monitoring report, one of the recommendations could no longer be complied with as events had overtaken the relevance of any remedial action.
Safeguards had been released internally for comments on 28 October 2010. Accordingly, the CRP informed Management that it considered this recommendation substantially fulfilled.

As for (ii), the CRP acknowledged in its third annual monitoring report that Management had taken action to identify and inform households impoverished as a result of resettlement about their entitlement to income restoration support. Nonetheless, the CRP continued to be concerned that the reduction in the scope of the IRP could have excluded residents who otherwise might have received support. In order to achieve full compliance with this recommendation, the fourth monitoring report recommended that ADB work closely with the executing agency to identify any poor households not covered by the revised IRP and, if necessary, to provide the support needed to at least reestablish their pre-project livelihoods.

As required by its operating procedures, the CRP must complete a fifth and final monitoring report that in this case will be limited to a review of progress on the last of the 19 original recommendations. Together with the Sri Lanka Resident Mission, the CRP is planning to combine this monitoring mission with a review of lessons identified from the entire compliance review process. This joint review would include the participation of the government, executing agencies, consultants, civil society, affected stakeholders, and requesting parties in addition to current and former ADB staff involved with the project. The mission is scheduled for the first quarter of 2011.
Lessons Identified from Compliance Reviews

During the final annual monitoring of the STDP, the CRP will collaborate with the operations staff to identify lessons over the past 5 years. The CRP will solicit the views and comments of affected persons and of the requesters which may possibly help in drawing valuable lessons.

The CRP is also identifying lessons during the initial processing of the Fuzhou compliance review. Several important ones relate to the AM itself and are being addressed in the AM review (see Chapter 6, p. 15). The CRP acknowledges the importance of constant communication with Management, the requesters, and the developing member country (DMC) in conducting this compliance review. Misunderstandings, including potential problems, can be avoided when there is effective communication. In addition, the CRP has also made the following preliminary observations on ADB actions and procedures.

5 After the date of this report, the CRP started the process of compiling these lessons from this case.
Lessons Identified from Compliance Reviews

• ADB needs to ensure that adequate qualified and experienced staff are available to ensure full compliance with operational policies and procedures and that Management continues to provide institutional support to ensure quality control. This is particularly important in projects involving involuntary resettlement because it is complex and entails difficult social interventions. Experience with the AM at ADB and with mechanisms in similar institutions has shown that a majority of compliance review requests involve resettlement.

• ADB staff, especially at the resident missions, need to be proactive in dealing with potential compliance problems or complaints raised by affected people. The systematic inclusion of grievance redress mechanisms in project design is a very positive development but will not address all the concerns raised by project beneficiaries, particularly those that relate to compliance. Resident missions are often the point of entry for AM-related issues; therefore, sensitivity and transparency at the missions will go a long way in facilitating constructive engagement and will reduce risks to ADB’s reputation.

• ADB should ensure that it has an in-house capacity to assist staff in operational departments who encounter compliance issues. Training should also include basic skills in conflict resolution and grievance redress.

• ADB has demonstrated that it is willing to deal with compliance issues and to consider this an opportunity for learning and improvement rather than a threat. The CRP encourages this trend.
Independent Accountability
Mechanisms

Chapter 5

The Compliance Review Panel liaises with accountability mechanisms at other institutions.

Seventh Annual Meeting of the Independent Accountability Mechanisms

The meeting was held on 28–29 June 2010 in Tokyo, Japan, hosted by the Japan Bank for International Cooperation (JBIC) and Nippon Export and Investment Insurance (NEXI). The CRP, the Office of the Compliance Review Panel (OCRP), and the OSPF attended. Principals of IAMs from various other international financing institutions attended among them the African Development Bank, the European Bank for Reconstruction and Development (EBRD), the European Investment Bank, the World Bank, the Inter-American Development Bank (IDB), the Compliance Advisor/Ombudsman for the International Finance Corporation and Multilateral Investment Guarantee Agency, JBIC, NEXI, the Overseas Private Investment Corporation, and, for the first time, the European Ombudsman. Topics discussed during the 2-day session included outreach activities, harmonization among the IAMs, internal governance, use of country systems, the evolution of the IAM group, and links with private Equator banks, as well as climate change policy and environmental dispute
resolution in Japan. The OSPF gave a presentation on their outreach activities and facilitated the discussion on this topic. The CRP secretary gave a report on IAMnet, the pilot community of practice (CoP) of the IAMs, and circulated a compendium of its first online discussion.6

As a companion event, ADB and the World Bank gave a joint presentation on their IAMs to Japan-based NGOs, academics, representatives of Japan’s government bodies, and IAM principals. The forum was organized at the ADB Institute on 29 June by JBIC, NEXI, and ADB’s Japanese Representative Office.

The Eighth Annual Meeting of the IAMs will be held in June 2011 in Washington, DC, and will be hosted by IDB.

Piloting a Community of Practice for Independent Accountability Mechanisms

During the 12-month pilot period completed in December 2010, the OCRP hosted the first online discussion, “Use of Country Systems and its Implications on Accountability Mechanisms,” from April to June 2010. A compendium of the discussions was posted on IAMnet, the community’s virtual learning network and was distributed to CoP members at the annual meeting. In the second half of 2010, the OCRP also launched the quarterly CoP newsletter IAMnet Newslinks.

Although the pilot period is over, the CoP has not fully launched its program of online discussions. At the annual meeting, the OCRP learned of and clarified some concerns of CoP members that had hindered their active participation. These concerns include technical problems, the amount of time required to participate, the accessibility of the site, designating a new host when the pilot period ends, and the cost of maintaining the CoP and IAMnet for the next host. On the other hand, members agreed that the CoP must continue beyond the initial pilot period so they can better explore its potential benefits. Thus, the OCRP proposed and members agreed to extend the pilot by 12 months up to 31 December 2011. ADB approved the extension on 5 January 2011.

6 IAMnet is hosted by the OCRP under Technical Assistance 7349–REG: Piloting a Community of Practice for Independent Accountability Mechanisms.
CoP-IAM Publications

Compendium of online discussion on the Use of Country System: What Does It Mean for the Accountability Mechanisms? The online discussion ran from 16 April to 24 June 2010 and was facilitated by Dr. Maartje van Putten, an accountability and compliance expert who is a member of the African Development Bank’s Independent Recourse Mechanism.

IAMnet Newslinks—the quarterly electronic newsletter of the Community of Practice for Independent Accountability Mechanisms. This newsletter provides links to the various news items contributed by members and those published in their websites.
Chapter 6

OCRP Activities in Fiscal Year 2010

The OCRP carries out public outreach and information dissemination on the Accountability Mechanism and the work of the Compliance Review Panel.

The OCRP provides institutional support and services to the CRP and acts as the secretariat to the Board Compliance Review Committee.

During the year, the OCRP and OSPF conducted seminars on the AM in Armenia, Azerbaijan, Georgia, Indonesia, Japan, and Thailand. The OCRP and CRP also participated in workshops in Australia, Canada, and the United States. In addition, the OCRP developed an outreach strategy paper, sponsored an ongoing pilot study on conducting systematic outreach programs under an ADB technical assistance grant, introduced a new monitoring system on CRP recommendations, and produced a number of new information materials. Excluding the technical assistance grant, the OCRP spent 7% of its 2010 administrative budget on outreach and information dissemination. The following summarizes the activities and initiatives undertaken by the OCRP in 2010.

Outreach

Seminars and Workshops

Canada and United States. The chair and the secretary of the CRP attended the workshop
“Sharpening Your Teeth—Advanced Investigative Training for Administrative Watchdogs” conducted by the Ombudsman of Ontario, Canada. The program highlighted at least three broad general elements of the work of the ombudsman that are directly related to the work of the CRP in implementing the AM: (i) planning and implementing an investigation, (ii) a systematic approach to evidence, and (iii) the concept of “systemic investigations.”

After the workshop, the chair and secretary were joined by CRP member Anne Deruyttere for various briefings and consultations in Washington, DC, with the US Treasury, the World Bank Inspection Panel, IDB’s Independent Consultation and Investigation Mechanism (MICI), and The Tuesday Group (an informal gathering of representatives from US government and civil society that meets once a month to discuss international development issues). In Washington, they gave presentations on the AM for the inspection panel and other World Bank personnel as well as to IDB-MICI staff. The CRP chair and secretary also visited the United Nations University (UNU) World Institute for Development Economics Research in New York. They met with the UNU director and agreed to look into the prospect of working with the UNU to host a gathering of governance, accountability, and compliance experts around the time of the Eighth Annual Meeting of the IAMs in June 2011.

Armenia, Azerbaijan, and Georgia. The OCRP, OSPF, and ADB NGO Center (NGOC) held joint outreach missions on the AM in these three countries attended by government representatives, staff of project executing agencies and implementing agencies, and representatives of NGOs and civil society. EBRD’s projects complaint mechanism officer also joined the outreach sessions in Armenia and Georgia and presented EBRD’s project complaint mechanism. The OSPF and NGOC, in coordination with ADB staff from the three resident missions, arranged the whole event.

Uzbekistan. At the recent 43rd Annual Meeting of the ADB Board of Governors held in Tashkent, Uzbekistan, the CRP chair and the SPF met representatives of a number of NGOs and civil society organizations (CSOs) as part of the CSO program facilitated by NGOC. Except for three local NGOs from the Environmental Law Center, Mahalla, and Armon in Tashkent, most participants were labor-based CSOs from Australia, India, and the Philippines.

Indonesia. At the invitation of the country director of the Indonesia Resident Mission, the CRP secretary and the SPF held two outreach sessions on the AM in Jakarta. The first was held during the kickoff meeting for the country portfolio review mission (CPRM) and was attended by 50 government officials from the National Development Planning Agency, the Ministry of Finance, the Bank of Indonesia, and the Audit and Development Supervising Agency and by various executing agencies responsible for ADB-assisted projects. The Vice Minister of National Development Planning and Vice Chairman of the National Development Planning Agency chaired the session. The second session was for 20 ADB resident mission staff and prompted interesting questions and stimulating discussions. The CRP secretary and the SPF highlighted some of the features, issues,
and implications that all ADB staff must face when considering accountability and compliance.

**Australia.** The CRP secretary participated in a workshop convened by Public Services International in Sydney, Australia. This included a presentation on the AM to representatives from six of ADB’s Pacific DMCs, namely, Cook Islands, Fiji, Papua New Guinea, Samoa, Tonga, and Vanuatu. This was an ideal opportunity to explain the details of the AM, obtain feedback on OCRP’s ideas for outreach during 2010, and alert affected persons to the initiation of the review of the AM.

The CRP secretary also had discussions with the New South Wales Ombudsman’s Office, which has been involved with the Pacific Ombudsman Alliance (www.pacificombudsman.org), the Research Institute for Asia and the Pacific at the University of Sydney, Oxfam Australia, and governance practitioners.

**Thailand.** A mission comprising the CRP associate secretary and the principal project facilitation specialist of the OSPF held a meeting with the Asia Indigenous People’s Pact at its secretariat office in Chiang Mai to discuss the following: (i) improving AM outreach to indigenous peoples in ADB-assisted projects, (ii) clarifying issues that indigenous groups had in accessing the AM, (iii) sharing indigenous groups’ experiences with ADB-assisted projects, (iv) understanding how the indigenous groups were linked and represented local communities, and (v) identifying areas for possible cooperation between the OSPF and indigenous people in establishing a project-based grievance mechanism.

**The New Accountability Mechanism Outreach Strategy**

The OCRP and the OSPF produced the AM outreach strategy paper in November 2010. It outlines external and internal outreach programs that aim to broaden the understanding of and increase the accessibility to the AM for all project stakeholders, affected people, government officials in DMCs, project executing and implementing agencies, cofinanciers, private sector sponsors, NGOs, CSOs, and ADB Management and staff. The AM outreach strategy has three main outputs: (i) an annual outreach program, (ii) regional technical assistance for conducting systematic outreach, and (iii) eLearning courses for ADB staff on the AM. The OCRP and OSPF will discuss the outreach strategy with operations departments and will work with them on outreach campaigns to be held in various DMCs and at ADB headquarters in Manila commencing in 2011.
Outreach for Good Governance and Development Effectiveness through the Accountability Mechanism

In August 2010, ADB approved this technical assistance grant designated as a pilot program for managing and organizing outreach. It aims to facilitate better information dissemination about the AM, particularly on the process and procedures for submitting a complaint or a request for compliance review. The aim is to produce a more systematic annual outreach program, reach a greater number of project-affected people and ensure they are better informed about their rights under the AM, and enable a more effective assessment of the impact of outreach.

The OCRP has engaged the services of The University of Sydney to undertake a preliminary study on the cultural and sociological setting of Pacific DMCs that will be used to help design outreach programs on the AM. The university commenced work on December 2010 and produced a preliminary report in February 2011. The outcome of the study will provide a road map that will help the OCRP and the OSPF in designing outreach programs that are tailored to the needs of Pacific DMCs. The outreach programs will be held in consultation with the Pacific Department in March or April 2011.

Information Dissemination

Websites

The OCRP maintains three websites: the CRP website, the AM page on the ADB website, and IAMnet. These websites are important tools in disseminating the work of the CRP and in promoting the AM. During the review of the AM in 2010, the CRP and AM websites maintained direct links to a dedicated website that was one of the main sources of information for the working group and international experts conducting the review. IAMnet, on the other hand, continued to serve the knowledge sharing needs of the CoP of IAM practitioners and experts.

Compliance Review Monitoring System

The OCRP launched the new web-based compliance review monitoring system (CRMS) on 16 August 2010 to track implementation of CRP recommendations on compliance review cases. The system was used on a trial basis by the Sri Lanka Resident Mission to prepare their fifth implementation progress report on the STDP in September 2010. CRMS is now running and aims to provide a more efficient and effective means for reporting and monitoring for both the operations departments implementing remedial actions and for the CRP to monitor implementation. CRMS is available on the MyADB intranet at http://lnadbg4.adb.org/ocrp001p.nsf.

eLearning on the Accountability Mechanism

There are strong indications that most ADB staff are not fully aware of the AM, their roles in ensuring that project-affected people and other project stakeholders are familiar with the AM, and the significance of the AM for ADB operations and its reputation. This need to raise awareness among ADB staff is one of the challenges that the AM outreach strategy must address, so in mid-2010 the OCRP formulated a concept paper for the development of a program of eLearning courses on the AM. In cooperation with the OSPF, the OCRP will implement the program in three phases over a 3-year period commencing in 2011 (see the following box). The eLearning courses or modules will cater to various staff categories at different levels and eventually will be integrated with ADB’s staff learning and development program.

As a prelude to the full course, the OCRP has developed and published a flash presentation (video) summarizing basic information on the AM. The video was published on the ADB, CRP, and MyADB websites in October 2010.

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ADB. 2010. REG–7572 Outreach for Good Governance and Development Effectiveness through the Accountability Mechanism. Manila (approved for $225,000).
The eLearning program for the Accountability Mechanism will be conducted in three phases:

- **Phase 1: Increasing Awareness.** To orient ADB staff on the rationale behind the Accountability Mechanism as well as the procedures that apply to both the consultation and the compliance review phases.
- **Phase 2: Acquiring Knowledge and Know-How.** To help ADB staff acquire knowledge and know-how that will help address and possibly mitigate potential cases of noncompliance with ADB operational policies and procedures before they happen, which in turn may reduce the risk of complaints and compliance reviews.
- **Phase 3: Institutional Accountability.** The eLearning program will be designed to contribute eventually to improved institutionalization of compliance and accountability at ADB.

Phases 1 and 2 will be rolled out in the first half of 2011 while Phase 3 will be designed based on lessons learned during the first two phases.
**OCRП Publications**

**Compliance Review Quarterly.** An electronic newsletter highlighting the activities of the compliance review phase of the Accountability Mechanism, published every quarter on the CRP website.

**Chashma: A Case Study in Compliance.** A compilation of lessons learned from 5 years of monitoring by the Compliance Review Panel of the Board-approved recommendations under the Pakistan Chashma Right Bank Irrigation Project (Stage III).

*continued on next page*
A booklet-type publication providing guidance to people affected by ADB-assisted projects on how to file a request for a compliance review, explains the steps and procedures in conducting a compliance review, and provides basic information on the Compliance Review Panel.

The Accountability Mechanism and ADB’s Private Sector Operations. This brochure explains the application of the Accountability Mechanism to ADB’s private sector operations, the consultation and compliance review phases, and the activities in private sector operations.
Publications

The OCRP published new information materials and reports for the compliance review phase of the AM and for the AM as well. Among them were the following: a new pamphlet titled *Compliance Review: A Guide to the Compliance Review Process and Filing a Request for Compliance Review*; a knowledge showcase on the Pakistan Chashma Right Bank Irrigation Project (Stage III) outlining lessons learned during the CRP’s 5-year annual monitoring of compliance review recommendations; a flash video presentation on the AM published on the internet, and a quarterly e-newsletter for the CoP of IAMs called *IAMnet Newslinks*. In addition, the OCRP published its own quarterly newsletter, *Compliance Review Quarterly*, issued the CRP 2009 annual report in August 2010, translated and published various versions of a sample request letter for compliance review on the CRP website, and developed a new pamphlet on the AM and ADB private sector operations to be published in 2011.
Chapter 7

Resources

The OCRP provides secretariat support to the Compliance Review Panel, among which is the services of an interpreter during site visits to affected people.

Office of the Compliance Review Panel Staff

The secretariat of the OCRP is headed by the secretary who is appointed by the ADB President and is assisted by the associate secretary, a national officer, and two administrative staff. The secretary is responsible for the support and daily administration of CRP operations as well as for the operation and administration of the OCRP and OCRP staff. The OCRP comprises the following:

- **Secretary, CRP and Board Compliance Review Committee, and Head, OCRP**
  Bruce Purdue
- **Associate Secretary**
  Vacant
  Dewi Utami (until 11 November 2010)
- **Compliance Review Officer**
  Teresita S. Capati

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8 Position was filled up by Geoffrey Crooks on 4 March 2011.
Consulting Services

In carrying out its various activities and support for the CRP in 2010, the OCRP has engaged the consulting services of an editor, a document examiner, an information technology expert and website administrator, a primary website developer, a website designer, and translators.

Budget\(^{10}\)

The AM compliance review incurred a total expenditure in 2010 of $1,195,000 comprising $524,000 for the CRP and $671,000 for the OCRP. This included monitoring the Chashma and STDP projects; CRP meetings, workshops, and seminars; consulting services; printing information brochures; and translating CRP reports.

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\(^9\) This position became vacant from 15 March 2011.

\(^{10}\) Figures have been rounded.
The Compliance Review Panel

Appointment

The Compliance Review Panel (CRP) is an independent body appointed by the ADB Board of Directors upon the recommendation of the President. It consists of three persons: one full-time chair and two part-time members. Two CRP members are from ADB regional countries, with at least one from a developing member country (DMC). The third member is from a nonregional country.

Each CRP member has a 5-year, nonrenewable term. After serving on the CRP, members are barred from employment at ADB. A CRP member may be removed from office for cause only by a majority decision of the ADB Board.

Members of the CRP

Currently, the CRP consists of Chair Mr. Rusdian Lubis and part-time members Mr. Antonio La Viña and Ms. Anne Deruyttere.

Rusdian Lubis, Chair, 2009–2014

Mr. Lubis is an Indonesian national who has more than 30 years experience in environmental management. He has worked with government, university, and private firms in Indonesia and with the World Bank as a senior executive. He has also been chair of the Board of Dana Mitra Lingkungan (Environmental Funds) since 2008 and founded Yayasan Waetasi, a nongovernment organization for coastal conservation in Sulawesi, Indonesia, in 1986. He has a bachelor of science in agricultural economics and a master of science in natural resource management and environmental sciences from Bogor Agricultural University and a doctor of philosophy in agricultural and resource economics from Oregon State University in the United States (US).

Antonio La Viña, Member, 2007–2012

Mr. La Viña is a Philippine national. He is presently the dean of the Ateneo School of Government in the Philippines. Prior to this, he was a senior fellow and program director at the World Resources Institute in the US, the undersecretary for legal and legislative affairs and attached agencies at the Department of Environment and Natural Resources in the Philippines, and a law professor at the University of the Philippines. He was a cofounder, trustee, researcher, and policy director for the Legal Rights and Natural Resources Center and Kasama sa Kalikasan—Friends of the Earth—in the Philippines.
Anne Deruyttere, 2008–2013

Ms. Deruyttere is a citizen of Belgium with over 30 years of experience with social safeguard issues, indigenous peoples, community participation, and culture and development. Until 2007, she was the chief of the Indigenous Peoples and Community Development Unit at the Inter-American Development Bank where she coordinated the preparation of policies on involuntary resettlement and on indigenous issues. She holds graduate degrees in economics from the University of Louvain (Belgium) and in anthropology from Edinburgh University (United Kingdom). She is currently consulting with the World Bank Group, other international organizations, and the private sector.

The Role of the CRP

The CRP investigates whether harm alleged to have been suffered by project-affected people was caused by noncompliance with ADB operational policies and procedures and, if so, recommends remedial actions to the Board. CRP activities include receiving and registering requests for compliance review, assessing the eligibility of requests, preparing a plan to undertake a review of a particular request, undertaking the review, preparing reports that include recommendations and remedial measures to bring projects back into compliance, and monitoring the implementation of Board-approved remedial actions.

CRP activities are guided by five principles:
(i) enhance ADB’s development effectiveness and project quality; (ii) be responsive to the concerns of project-affected people and be fair to all stakeholders; (iii) reflect the highest professional and technical standards in staff and operations; (iv) be independent and as transparent as possible; and (v) be cost effective, efficient, and complementary to other supervision, audit, quality control, and evaluation systems in ADB.

The Office of the Compliance Review Panel (OCRP) provides secretariat support to the CRP and to the Board Compliance Review Committee. In addition, the OCRP has a mandate to carry out public outreach and information dissemination on the Accountability Mechanism in collaboration and partnership with the Office of the Special Project Facilitator.

Requests for Compliance Review

Affected persons who have pursued solutions through the consultation phase may request that the CRP investigate ADB compliance. Such requests are based on allegations of direct, material harm caused by an ADB failure to comply with its own operational policies and procedures. If a request is eligible, the CRP will conduct an investigation as to whether any harm has been or may be caused by noncompliance and, if so, will recommend remedial actions to the Board of Directors.
Affected persons may request a compliance review in respect of both public sector projects and private sector operations. The filing of a request for a compliance review does not suspend or otherwise affect the formulation, processing, or implementation of the project unless agreed to by the DMC government or private project sponsor and ADB.

Eligibility

A request for compliance review may be filed by any group of two or more persons in a borrowing country where the ADB-assisted project is located or in a member country adjacent to the borrowing country, by a local

<table>
<thead>
<tr>
<th>List of Exclusions</th>
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<tbody>
<tr>
<td>Matters that are not related to ADB actions or omissions in the course of the formulation, processing, or implementation of ADB-assisted projects</td>
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<tr>
<td>Decisions made by ADB, the borrower, the executing agency, or the private project sponsor relating to procurement of goods and services, including consulting services</td>
</tr>
<tr>
<td>Allegations of fraud or corruption in ADB-assisted projects and by ADB staff</td>
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<tr>
<td>An ADB-assisted project for which a project completion report has been issued</td>
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<tr>
<td>Matters already considered under the previous inspection function or by the Compliance Review Panel unless there is significant new evidence presented that was not known at the time of the original complaint or unless the subsequent complaint can be readily consolidated with the earlier complaint</td>
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<td>Matters about the adequacy or suitability of existing ADB policies and procedures</td>
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<td>Matters considered to be frivolous, malicious, trivial, or generated to gain competitive advantage</td>
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<tr>
<td>Matters within the jurisdiction of the ADB Appeals Committee or the ADB Administrative Tribunal or relating to ADB personnel matters</td>
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<tr>
<td>ADB’s nonoperational housekeeping matters, such as finance and administration</td>
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<td>Actions that are the responsibility of other parties such as a borrower, executing agency, or potential borrower unless the conduct of these other parties is directly relevant to an assessment of ADB compliance with its operational policies and procedures</td>
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<td>Matters that do not involve an action or omission by an ADB’s failure to follow its operational policies and procedures</td>
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<td>Laws, policies, and regulations of the executing agency or the developing member country government concerned unless they directly relate to ADB compliance with its operational policies and procedures</td>
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<tr>
<td>Matters relating to a private sector project that received concept clearance before 29 May 2003</td>
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<tr>
<td>Complaints that have not first been filed with the Special Project Facilitator (this exclusion does not apply to a request from Board members)</td>
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representative of the persons affected; by a nonlocal representative in exceptional cases where local representation cannot be found and the CRP agrees; or by any one or more members of the Board of Directors.

Requests for compliance review may be filed with the CRP only after concerns are first raised with ADB operations staff and after complaints are addressed to the Special Project Facilitator (SPF). If, however, the SPF finds the complaint ineligible, or if the complainants or requesters find the consultation not purposeful, or if the consultation is at an advanced stage and there are still concerns on compliance issues, a request for compliance review may be filed with the CRP. Any member of the Board may request the CRP to conduct a compliance review.

Exclusions

A request is eligible for compliance review provided it does not fall into any one of the following exclusions as stated in the CRP operating procedures available at www.compliance.adb.org.

Reporting Mandate

The CRP reports directly to the Board of Directors on all its activities except (i) clearing proposed terms of reference and time frames for conducting compliance reviews and (ii) reviewing draft reports on the annual monitoring of remedial actions approved by the Board as a result of a compliance review. In these two instances, the CRP reports to the Board Compliance Review Committee.

Monitoring Mandate

One of the most important activities of the CRP is to monitor the implementation of remedial actions to bring a project back into compliance as recommended by the CRP following a compliance review.

The CRP will report as frequently as required or at least annually for a period of 5 years and discloses its monitoring reports to the public on its website at www.compliance.adb.org.

Relationship with the Office of the Special Project Facilitator

Complaints relating to an ADB-assisted project under the AM will first go through the consultation phase except those compliance requests filed by a Board member. Complaints handled by the OSPF do not address ADB accountability under the AM. The reasons for this sequence appear to be as follows:

- the filing of complaints about a project is not necessarily contingent upon alleged noncompliance by ADB with its operational policies and procedures; and
- the objectives of the consultation phase are to deal with complaints from project-affected people and to facilitate the resolution of problems, whereas the objectives of the compliance review phase are to establish whether any direct and material harm is the result of an ADB failure to follow any of its operational policies and procedures in the formulation, processing, or implementation of the project.
About the Asian Development Bank

ADB’s vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region’s many successes, it remains home to two-thirds of the world’s poor: 1.8 billion people who live on less than $2 a day, with 903 million struggling on less than $1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.